

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

STEVEN DUSHION SANDERS,

Petitioner,

v.

Case Number: 09-cv-14550
Honorable Lawrence P. Zatkoff

BARRY D. DAVIS,

Respondent.

_____ /

**ORDER DENYING WITHOUT PREJUDICE PETITIONER'S
"APPLICATION FOR APPOINTMENT OF COUNSEL"**

Petitioner Steven Dushion Sanders, a state inmate currently incarcerated at the Newberry Correctional Facility in Newberry, Michigan, filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, on November 20, 2009, along with an "Application [Motion] For Appointment of Counsel." (Dkt. ## 1 & 3.) For the reasons set forth below, the Court will deny the Application for Appointment of Counsel.

The constitutional right to counsel in criminal proceedings provided by the Sixth Amendment does not apply to an application for writ of habeas corpus, which is a civil proceeding. *Cobas v. Burgess*, 306 F.3d 441, 444 (6th Cir. 2002), *cert. denied*, 538 U.S. 984 (2003), *reh. denied*, 539 U.S. 970 (2003). The Court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987). A habeas petitioner may obtain representation at any stage of the case "[w]henver

... the court determines that the interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B).

In this case, Respondent’s answer to the petition, along with the Rule 5 materials, are not due to be filed with the Court until June 30, 2010. (Dkt. # 6.) Therefore, the Court has not yet had an opportunity to review the state court record. Once the answer and the Rule 5 materials are filed with the Court, and, after a careful review of the materials, if the Court determines that appointment of counsel is necessary, then it will do so. Petitioner need not file any further motions regarding this issue.

Accordingly, **IT IS ORDERED** that Petitioner’s “Application for Appointment of Counsel” [dkt. # 3] is **DENIED WITHOUT PREJUDICE**. The Court will reconsider Petitioner’s request for counsel if it determines at a later date that appointment of counsel is necessary.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: January 6, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on January 6, 2010.

S/Marie E. Verlinde
Case Manager
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